

FILED**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

FEB 20 2008

Name THOMPSON, JAMAL
 (Last) (First) (Initial)

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Prisoner Number H-19614

Institutional Address CTF/CENTRAL, FW-218, PO BOX 689

RECEIVED

SOLEDAD, CA 93960-0689

FEB 20 2008

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

JAMAL THOMPSON

E-filing

(Enter the full name of plaintiff in this action.)

vs.

Case No. C 07-6420 PJH (PR)
 (To be provided by the clerk of court)

BEN CURRY, WARDEN

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

CORRECTIONAL TRAINING FACILITY

FIRST AMENDED PETITION

SOLEDAD-CENTRAL

(Enter the full name of respondent(s) or jailor in this action)

Read Comments Carefully Before Filling In**When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
 7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
 13 County Superior Court, Oakland):

14 Los Angles Superior Court Los Angeles County

15 Court

Location

16 (b) Case number, if known BH003935

17 (c) Date and terms of sentence 12-12-91, 15 to life, plus 2 yrs

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
 19 parole or probation, etc.) Yes X No

20 Where?

21 Name of Institution: cCorrectional Training Facility

22 Address: PO BOX 689, SOLEDAD, CA 93960-0689

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Second Degree Murder, PENAL CODE §187, and subd.12022.5(a)

27 _____
 28 _____

petition? Yes _____ No X

(c) Was there an opinion? Yes _____ No X

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes _____ No X

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes X No _____

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: SUPERIOR COURT OF LOS ANGELES COUNTY

Type of Proceeding: HABEAS CORPUS PETITION

Grounds raised (Be brief but specific):

a. THE BOARD'S DISCRETION TO DETERMINE SUITABILITY FOR PAROLE

b. THE BOARD'S DISCRETION TO DETERMINATION WAS UNSUPPORTED

c. BY EVIDENCE THAT WOULD BRING MR. THOMPSON'S CASE WITHIN

d. THE TERMS OF THE PENAL CODE §3041.

Result: DENIED Date of Result: FEB. 2007

II. Name of Court: COURT OF APPEAL, SECOND APPELLATE DISTRICT DIVISION FIVE

Type of Proceeding: HABEAS CORPUS PETITION

Grounds raised (Be brief but specific):

SAME AS ABOVE IN SECTION I. a-d

- 1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: DENIED Date of Result: MAY 17, 2007

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

- 9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

- 17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No _____

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: "SEE ATTACHED SHEET"

6
7 Supporting Facts: "SEE ATTACHED SHEET"

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11 Claim Two:

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13 Supporting Facts:

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17 Claim Three:

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19 Supporting Facts:

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23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

"ATTACHED SHEET"

CLAIM ONE:

THE BOARD OF PAROLE HEARINGS' UNSUITABILITY DETERMINATION WAS UNSUPPORTED BY THE "SOME EVIDENCE" TERMS WITHIN PENAL CODE §3041 AND VIOLATES PETITIONER'S 5th AND 14th AMENDMENT RIGHTS TO DUE PROCESS.

SUPPORTING FACTS:

The Board of Parole Hearings' (hereafter, BPH) Repeated unsuitability determination based on the circumstances of the commitment offense, violates Petitioner's constitutional rights to due process under state and Federal law. The record distinctly shows that the Petitioner is entitled by statute and regulatory criteria, to a parole release date. In spite of the preceding, the BPH has perpetually denied Petitioner parole without any relevant material evidence to support its' findings. According to statute "some evidence" has to exist in order to substantiate the unsuitability determination. Clearly the BPH has violated the spirits of Penal code §3041's plain expressed language by an inaccurate misapplication of the some evidence standard. The BPH's determination does not comply with due process of law. And a review is necessary to determine whether there exist a factual basis to support the unsuitability determination in the record before the BPH. (In re Rosenkrantz, 29 Cal.4th at p.667, 128 Cal Rptr.2d 104, 59 P.3d 174.)

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 McQuillion v. Duncan, 306 F.3d. 895(9th Cir. 2002)McQuillion v. Duncan,
5 235 F.Supp.2d. 1131(C.D.Cal.2003)In re Ramirez(2001)94 Cal.App.4th 549,
6 570;In re Dannenberg, S111029. Biggs v. Terhune et al. 9th Cir. No.02
7 15881,DJDAR 7245. In re Rosenkrantz, Supra

Do you have an attorney for this petition?

Yes _____

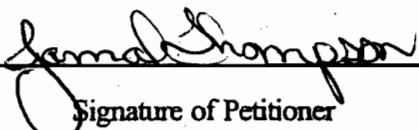
No x _____

8 If you do, give the name and address of your attorney:

9 _____
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12 Executed on Feb
13 Jan. 17, 2008

14 Date

15 
16 Signature of Petitioner
17
18
19

20 (Rev. 6/02)
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PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY
(C.C.P. §§ 1013(A), 2015,5)

I, Jamal Thompson, declare:
I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Thompson, J, CDCR #: H-19614
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: LB-111
SOLEDAD, CA 93960-0689.

On ~~Jan~~ Feb 17, 2008, I served the attached:

First amended petition

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

Office of the Attorney General
Jerry brown
455 Golden Gate Ave. Suite 11000
San Francisco, California 94102

Clerk of the U.S. District Court
Northern District of California
450 Golden Gate Ave
Post Office Box-36060
San Francisco, California 94102

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on ~~Jan~~ Feb 18, 2008.

Jamal Thompson
Declarant